

REMARKS

Summary of Office Action

Applicants note with appreciation that the statutory double patenting rejection of claims 7, 11-13, 21, 22 and 24-37 under 35 U.S.C. § 101 and the finality of the previous Office Action have been withdrawn.

Claims 7, 11-13, 21, 22 and 24-37, i.e., all claims of record, are rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1, 16, 3-15 and 22-27 of prior U.S. Patent No. 6,689,228 B2 to KÖCK et al. (hereafter "KÖCK").

Response to Office Action

Withdrawal of the rejection of record is respectfully requested, in view of the following remarks and the Terminal Disclaimer submitted herewith.

Claims 7, 11-13, 21, 22 and 24-37 are rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1, 16, 3-15 and 22-27 of KÖCK.

To render this rejection moot, Applicants are submitting herewith a Terminal Disclaimer with respect to KÖCK. In this regard, Applicants note that the current owner of the entire right, title and interest in the above-identified application and in KÖCK is voestalpine Schienen GmbH. A request for recordal of the change in ownership from the original assignee, VOEST-ALPINE SCHIENEN GmbH & CO KG to the current assignee has been filed in the U.S.

Patent and Trademark Office on July 7, 2005. Copies of the filed papers and the date-stamped Mailroom filing receipt are also enclosed herewith.

Applicants point out that the submission of the Terminal Disclaimer is not to be construed as Applicants' admission that the Examiner's arguments are of any merit, but merely is to expedite the prosecution of the present application and the issuance of a patent.

CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,
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